There being no objection, the Senate proceeded to consider the bill.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3197) was ordered to a third reading, was read the third time, and passed.

CHIRICAHUA NATIONAL PARK ACT

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 297, S. 1320.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1320) to establish the Chiricahua National Park in the State of Arizona as a unit of the National Park System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Chiricahua National Park Act''.

SEC. 2. DESIGNATION OF CHIRICAHUA NATIONAL PARK, ARIZONA.

(a) DESIGNATION.—

(1) IN GENERAL.—The Chiricahua National Monument in the State of Arizona established by Presidential Proclamation 1692 (54 U.S.C. 320301 note; 43 Stat. 1946) shall be known and designated as ''Chiricahua National Park'' (referred to in this Act as the ''National Park'').

(2) BOUNDARIES.—The boundaries of the National Park shall be the boundaries of the Chiricahua National Monument as of the date of enactment of this Act, as generally depicted on the map entitled ''Chiricahua National Park Proposed Boundary'', numbered 145/156,356, and dated March 2021.

(3) REFERENCES.—Any reference in a law, map, regulation, document, or other record of the United States to the Chiricahua National Monument shall be considered to be a reference to the ''Chiricahua National Park''.

(4) AVAILABILITY OF FUNDS.—Any funds available for the Chiricahua National Monument shall be available for the National Park.

(b) ADMINISTRATION.—The Secretary of the Interior shall administer the National Park in accordance with—

(1) Presidential Proclamation 1692 (54 U.S.C. 320301 note; 43 Stat. 1946);

(2) Presidential Proclamation 2288 (54 U.S.C. 320301 note; 52 Stat. 1551); and

(3) the laws generally applicable to units of the National Park System, including—

(A) section 100101(a), chapter 1003, and sections 100751(a), 100752, 100753, and 102101 of title 54, United States Code; and

(B) chapter 3201 of title 54, United States Code.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the committee-reported amendment be considered and agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee-reported amendment, in the nature of a substitute, was agreed to.

The bill (S. 1320), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

OCEAN SHIPPING REFORM ACT OF 2022

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 311, S. 3580.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3580) to amend title 46, United States Code, with respect to prohibited acts by ocean common carriers or marine terminal operators, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ocean Shipping Reform Act of 2022''.

SEC. 2. PURPOSES.

Section 40101 of title 46, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) ensure an efficient, competitive, and economical transportation system in the ocean commerce of the United States;'';

(2) in paragraph (3), by inserting ''and supporting commerce'' after ''needs''; and

(3) by striking paragraph (4) and inserting the following:

''(4) promote the growth and development of United States exports through a competitive and efficient system for the carriage of goods by water in the foreign commerce of the United States, and by placing a greater reliance on the marketplace.''.

SEC. 3. SERVICE CONTRACTS.

Section 40502(c) of title 46, United States Code, is amended—

(1) in paragraph (7), by striking ''; and'' and inserting a semicolon;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(9) any other essential terms that the Federal Maritime Commission determines necessary or appropriate through a rulemaking process.''.

SEC. 4. SHIPPING EXCHANGE REGISTRY.

(a) IN GENERAL.—Chapter 405 of title 46, United States Code, is amended by adding at the end the following:

''§ 40504. Shipping exchange registry

''(a) IN GENERAL.—No person may operate a shipping exchange involving ocean transportation in the foreign commerce of the United States unless the shipping exchange is registered as a national shipping exchange under the terms and conditions provided in this section and the regulations issued pursuant to this section.

''(b) REGISTRATION.—A person shall register a shipping exchange by filing with the Federal Maritime Commission an application for registration in such form as the Commission, by rule, may prescribe, containing the rules of the exchange and such other information and documents as the Commission, by rule, may prescribe as necessary or appropriate to complete a shipping exchange's registration.

''(c) EXEMPTION.—The Commission may exempt, conditionally or unconditionally, a shipping exchange from registration under this section if the Commission finds that the shipping exchange is subject to comparable, comprehensive supervision and regulation by the appropriate governmental authorities in a foreign country where the shipping exchange is headquartered.

''(d) REGULATIONS.—Not later than 3 years after the date of enactment of the Ocean Shipping Reform Act of 2022, the Commission shall issue regulations pursuant to subsection (a), which shall set standards necessary to carry out subtitle IV of this title for registered national shipping exchanges, including the minimum requirements for service contracts established under section 40502 of this title.

''(e) DEFINITION OF SHIPPING EXCHANGE.—In this section, the term 'shipping exchange' means a platform (digital, over-the-counter, or otherwise) that connects shippers with common carriers for the purpose of entering into underlying agreements or contracts for the transport of cargo, by vessel or other modes of transportation.''.

(b) APPLICABILITY.—The registration requirement under section 40504 of title 46, United States Code (as added by subsection (a)), shall take effect on the date on which the Federal Maritime Commission states the rule is effective in the regulations issued under such section.

(c) CLERICAL AMENDMENT.—The analysis for chapter 405 of title 46, United States Code, is amended by adding at the end the following:

''40504. Shipping exchange registry.''.

SEC. 5. PROHIBITION ON RETALIATION.

Section 41102 of title 46, United States Code, is amended by adding at the end the following:

''(d) RETALIATION AND OTHER DISCRIMINATORY ACTIONS.—A common carrier, marine terminal operator, or ocean transportation intermediary, acting alone or in conjunction with any other person, directly or indirectly, may not—

''(1) retaliate against a shipper, an agent of a shipper, an ocean transportation intermediary, or a motor carrier by refusing, or threatening to refuse, an otherwise-available cargo space accommodation; or

''(2) resort to any other unfair or unjustly discriminatory action for—

''(A) the reason that a shipper, an agent of a shipper, an ocean transportation intermediary, or motor carrier has—

''(i) patronized another carrier; or

''(ii) filed a complaint against the common carrier, marine terminal operator, or ocean transportation intermediary; or

''(B) any other reason.''.

SEC. 6. PUBLIC DISCLOSURE.

Section 46106 of title 46, United States Code, is amended by adding at the end the following:

''(d) PUBLIC DISCLOSURES.—The Federal Maritime Commission shall publish, and annually update, on the website of the Commission—

''(1) all findings by the Commission of false detention and demurrage invoice information by common carriers under section 41104(a)(15) of this title; and

''(2) all penalties imposed or assessed against common carriers, as applicable, under sections 41107, 41108, and 41109, listed by each common carrier.''.

SEC. 7. COMMON CARRIERS.

(a) IN GENERAL.—Section 41104 of title 46, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''may not'' and inserting ''shall not'';

(B) by striking paragraph (3) and inserting the following:

''(3) unreasonably refuse cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods;'';

(C) in paragraph (5), by striking'' in the matter of rates or charges'' and inserting ''against any commodity group or type of shipment or in the matter of rates or charges'';

(D) in paragraph (10), by adding '', including with respect to vessel space accommodations provided by an ocean common carrier'' after ''negotiate'';

(E) in paragraph (12) by striking ''; or'' and inserting a semicolon;

(F) in paragraph (13) by striking the period and inserting a semicolon; and

(G) by adding at the end the following:

''(14) assess any party for a charge that is inconsistent or does not comply with all applicable provisions and regulations, including subsection (c) of section 41102 or part 545 of title 46, Code of Federal Regulations (or successor regulations);

''(15) invoice any party for demurrage or detention charges unless the invoice includes information as described in subsection (d) showing that such charges comply with—

''(A) all provisions of part 545 of title 46, Code of Federal Regulations (or successor regulations); and

''(B) applicable provisions and regulations, including the principles of the final rule published on May 18, 2020, entitled 'Interpretive Rule on Demurrage and Detention Under the Shipping Act' (or successor rule); or

''(16) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage against any commodity group or type of shipment.''; and

(2) by adding at the end the following:

''(d) DETENTION AND DEMURRAGE INVOICE INFORMATION.—

''(1) INACCURATE INVOICE.—If the Commission determines, after an investigation in response to a submission under section 41310, that an invoice under subsection (a)(15) was inaccurate or false, penalties or refunds under section 41107 shall be applied.

''(2) CONTENTS OF INVOICE.—An invoice under subsection (a)(15), unless otherwise determined by subsequent Commission rulemaking, shall include accurate information on each of the following, as well as minimum information as determined by the Commission:

''(A) Date that container is made available.

''(B) The port of discharge.

''(C) The container number or numbers.

''(D) For exported shipments, the earliest return date.

''(E) The allowed free time in days.

''(F) The start date of free time.

''(G) The end date of free time.

''(H) The applicable detention or demurrage rule on which the daily rate is based.

''(I) The applicable rate or rates per the applicable rule.

''(J) The total amount due.

''(K) The email, telephone number, or other appropriate contact information for questions or requests for mitigation of fees.

''(L) A statement that the charges are consistent with any of Federal Maritime Commission rules with respect to detention and demurrage.

''(M) A statement that the common carrier's performance did not cause or contribute to the underlying invoiced charges.

''(e) SAFE HARBOR.—If a non-vessel operating common carrier passes through to the relevant shipper an invoice made by the ocean common carrier, and the Commission finds that the non-vessel operating common carrier is not otherwise responsible for the charge, then the ocean common carrier shall be subject to refunds or penalties pursuant to subsection (d)(1).

''(f) ELIMINATION OF CHARGE OBLIGATION.—Failure to include the information required under subsection (d) on an invoice with any demurrage or detention charge shall eliminate any obligation of the charged party to pay the applicable charge.''.

(b) RULEMAKING ON DEMURRAGE OR DETENTION.—

(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Federal Maritime Commission shall initiate a rulemaking further defining prohibited practices by common carriers, marine terminal operators, shippers, and ocean transportation intermediaries under section 41102(c) of title 46, United States Code, regarding the assessment of demurrage or detention charges. The Federal Maritime Commission shall issue a final rule defining such practices not later than 1 year after the date of enactment of this Act.

(2) CONTENTS.—The rule under paragraph (1) shall seek to further clarify reasonable rules and practices related to the assessment of detention and demurrage charges to address the issues identified in the final rule published on May 18, 2020, entitled ''Interpretive Rule on Demurrage and Detention Under the Shipping Act'' (or successor rule), including a determination of which parties may be appropriately billed for any demurrage, detention, or other similar per container charges.

(c) RULEMAKING ON UNFAIR OR UNJUSTLY DISCRIMINATORY METHODS.—Not later than 60 days after the date of enactment of this Act, the Federal Maritime Commission shall initiate a rulemaking defining unfair or unjustly discriminatory methods under section 41104(a)(3) of title 46, United States Code, as amended by this section. The Federal Maritime Commission shall issue a final rule not later than 1 year after the date of enactment of this Act.

(d) RULEMAKING ON UNREASONABLE REFUSAL TO DEAL OR NEGOTIATE WITH RESPECT TO VESSEL SPACE ACCOMMODATIONS.—Not later than 30 days after the date of enactment of this Act, the Federal Maritime Commission, in consultation with the Commandant of the United States Coast Guard, shall initiate a rulemaking defining unreasonable refusal to deal or negotiate with respect to vessel space under section 41104(a)(10) of title 46, as amended by this section. The Federal Maritime Commission shall issue a final rule not later than 6 months after the date of enactment of this Act.

SEC. 8. ASSESSMENT OF PENALTIES OR REFUNDS.

(a) IN GENERAL.—Title 46, United States Code, is amended—

(1) in section 41107—

*(A) in the section heading, by inserting ''**or refunds**'' after ''**penalties**'';*

(B) in subsection (a), by inserting ''or, in addition to or in lieu of a civil penalty, is liable for the refund of a charge'' after ''civil penalty''; and

(C) in subsection (b), by inserting ''or, in addition to or in lieu of a civil penalty, the refund of a charge,'' after ''civil penalty''; and

(2) section 41109 is amended—

(A) by striking subsections (a) and (b) and inserting the following:

''(a) GENERAL AUTHORITY.—Until a matter is referred to the Attorney General, the Federal Maritime Commission may—

''(1) after notice and opportunity for a hearing, in accordance with this part—

''(A) assess a civil penalty; or

''(B) in addition to, or in lieu of, assessing a civil penalty under subparagraph (A), order a refund of money (including additional amounts in accordance with section 41305(c)), subject to subsection (b)(2); and

''(2) compromise, modify, or remit, with or without conditions, a civil penalty or refund imposed under paragraph (1).

''(b) DETERMINATION OF AMOUNT.—

''(1) FACTORS FOR CONSIDERATION.—In determining the amount of a civil penalty assessed or refund of money ordered pursuant to subsection (a), the Federal Maritime Commission shall take into consideration—

''(A) the nature, circumstances, extent, and gravity of the violation committed;

''(B) with respect to the violator—

''(i) the degree of culpability;

''(ii) any history of prior offenses;

''(iii) the ability to pay; and

''(iv) such other matters as justice may require; and

''(C) the amount of any refund of money ordered pursuant to subsection (a)(1)(B).

''(2) COMMENSURATE REDUCTION IN CIVIL PENALTY.—

''(A) IN GENERAL.—In any case in which the Federal Maritime Commission orders a refund of money pursuant to subsection (a)(1)(B) in addition to assessing a civil penalty pursuant to subsection (a)(1)(A), the amount of the civil penalty assessed shall be decreased by any additional amounts included in the refund of money in excess of the actual injury (as defined in section 41305(a)).

''(B) TREATMENT OF REFUNDS.—A refund of money ordered pursuant to subsection (a)(1)(B) shall be—

''(i) considered to be compensation paid to the applicable claimant; and

''(ii) deducted from the total amount of damages awarded to that claimant in a civil action against the violator relating to the applicable violation.'';

(B) in subsection (c), by striking ''may not be imposed'' and inserting ''or refund of money under subparagraph (A) or (B), respectively, of subsection (a)(1) may not be imposed'';

(C) in subsection (e), by inserting ''or order a refund of money'' after ''penalty'';

(D) in subsection (f), by inserting '', or that is ordered to refund money,'' after ''assessed''; and

(E) in subsection (g), in the first sentence, by inserting ''or a refund required under this section'' after ''penalty''.

SEC. 9. DATA COLLECTION.

(a) IN GENERAL.—Chapter 411 of title 46, United States Code, is amended by adding at the end the following:

''§ 41110. Data collection

''The Federal Maritime Commission shall publish on its website a calendar quarterly report that describes the total import and export tonnage and the total loaded and empty 20-foot equivalent units per vessel (making port in the United States, including any territory or possession of the United States) operated by each ocean common carrier covered under this chapter. Ocean common carriers under this chapter shall provide to the Commission all necessary information, as determined by the Commission, for completion of this report.''.

(b) RULE OF CONSTRUCTION.—Nothing in this section, and the amendment made by this section, shall be construed to compel the public disclosure of any confidential or proprietary data, in accordance with section 552(b)(4) of title 5, United States Code.

(c) CLERICAL AMENDMENT.—The analysis for chapter 411 of title 46, United States Code, is amended by adding at the end the following:

''41110. Data collection.''.

SEC. 10. CHARGE COMPLAINTS.

(a) IN GENERAL.—Chapter 413 of title 46, United States Code, is amended by adding at the end the following:

''§ 41310. Charge complaints

''(a) IN GENERAL.—A person may submit to the Federal Maritime Commission, and the Commission shall accept, information concerning complaints about charges assessed by a common carrier. The information submitted to the Commission may include the bill of lading numbers, invoices, or any other relevant information.

''(b) INVESTIGATION.—Upon receipt of a submission under subsection (a), with respect to a charge assessed by a common carrier, the Commission shall promptly investigate the charge with regard to compliance with section 41104(a) and section 41102. The common carrier shall—

''(1) be provided an opportunity to submit additional information related to the charge in question; and

''(2) bear the burden of establishing the reasonableness of any demurrage or detention charges pursuant to section 545.5 of title 46, Code of Federal Regulations (or successor regulations).

''(c) REFUND.—Upon receipt of submissions under subsection (a), if the Commission determines that a charge does not comply with section 41104(a) or 41102, the Commission shall promptly order the refund of charges paid.

''(d) PENALTIES.—In the event of a finding that a charge does not comply with section 41104(a) or 41102 after submission under subsection (a), a civil penalty under section 41107 shall be applied to the common carrier making such charge.

''(e) CONSIDERATIONS.—If the common carrier assessing the charge is acting in the capacity of a non-vessel-operating common carrier, the Commission shall, while conducting an investigation under subsection (b), consider—

''(1) whether the non-vessel-operating common carrier is responsible for the noncompliant assessment of the charge, in whole or in part; and

''(2) whether another party is ultimately responsible in whole or in part and potentially subject to action under subsections (c) and (d).''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 413 of title 46, United States Code, is amended by adding at the end the following:

''41310. Charge complaints.''.

SEC. 11. INVESTIGATIONS.

(a) AMENDMENTS.—Section 41302 of title 46, United States Code, is amended—

(1) in subsection (a), in the first sentence, by striking ''or agreement'' and inserting ''agreement, fee, or charge''; and

(2) in subsection (b)—

(A) in the subsection heading, by striking ''***Agreement***'' and inserting ''***Agreement, fee, or charge***''; and

(B) by inserting '', fee, or charge'' after ''agreement''.

(b) REPORT.—The Federal Maritime Commission shall publish on a publicly available website of the Commission a report containing the results of the investigation entitled ''Fact Finding No. 29, International Ocean Transportation Supply Chain Engagement''.

SEC. 12. AWARD OF ADDITIONAL AMOUNTS.

Section 41305(c) of title 46, United States Code is amended by striking ''41102(b)'' and inserting ''subsection (b) or (c) of section 41102''.

SEC. 13. ENFORCEMENT OF REPARATION ORDERS.

Section 41309 of title 46, United States Code, is amended—

(1) in subsection (a), by striking ''reparation, the person to whom the award was made'' and inserting ''a refund of money or reparation, the person to which the refund or reparation was awarded''; and

(2) in subsection (b), in the first sentence—

(A) by striking ''made an award of reparation'' and inserting ''ordered a refund of money or any other award of reparation''; and

(B) by inserting ''(except for the Commission or any component of the Commission)'' after ''parties in the order''.

SEC. 14. ANNUAL REPORT TO CONGRESS.

Section 46106(b) of title 46, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(7) an identification of any otherwise concerning practices by ocean common carriers, particularly such carriers that are controlled carriers, that are—

''(A) State-owned or State-controlled enterprises; or

''(B) owned or controlled by, a subsidiary of, or otherwise related legally or financially (other than a minority relationship or investment) to a corporation based in a country—

''(i) identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this paragraph;

''(ii) identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a priority foreign country under subsection (a)(2) of that section; or

''(iii) subject to monitoring by the United States Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).''.

SEC. 15. TECHNICAL AMENDMENTS.

(a) Section 41108(a) of title 46, United States Code, is amended by striking ''section 41104(1), (2), or (7)'' and inserting ''paragraph (1), (2), or (7) of section 41104(a)''.

(b) Section 41109(c) of title 46, United States Code, as amended by section 8 of this Act, is further amended by striking ''section 41102(a) or 41104(1) or (2) of this title'' and inserting ''subsection (a) or (d) of section 41102 or paragraph (1) or (2) of section 41104(a)''.

(c) Section 41305 of title 46, United States Code, as amended by section 12 of this Act, is further amended—

(1) in subsection (c), by striking ''41104(3) or (6), or 41105(1) or (3) of this title'' and inserting ''paragraph (3) or (6) of section 41104(a), or paragraph (1) or (3) of section 41105''; and

(2) in subsection (d), by striking ''section 41104(4)(A) or (B) of this title'' and inserting ''subparagraph (A) or (B) of section 41104(a)(4)''.

SEC. 16. DWELL TIME STATISTICS.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term ''Director'' means the Director of the Bureau of Transportation Statistics.

(2) MARINE CONTAINER.—The term ''marine container'' means an intermodal container with a length of—

(A) not less than 20 feet; and

(B) not greater than 45 feet.

(3) OUT OF SERVICE PERCENTAGE.—The term ''out of service percentage'' means the proportion of the chassis fleet for any defined geographical area that is out of service at any one time.

(4) STREET DWELL TIME.—The term ''street dwell time'', with respect to a piece of equipment, means the quantity of time during which the piece of equipment is in use outside of the terminal.

(b) AUTHORITY TO COLLECT DATA.—

(1) IN GENERAL.—Each port, marine terminal operator, and chassis owner or provider with a fleet of over 50 chassis that supply chassis for a fee shall submit to the Director such data as the Director determines to be necessary for the implementation of this section, subject to subchapter III of chapter 35 of title 44, United States Code.

(2) APPROVAL BY OMB.—Subject to the availability of appropriations, not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall approve an information collection for purposes of this section.

(c) PUBLICATION.—Subject to the availability of appropriations, not later than 240 days after the date of enactment of this Act, and not less frequently than monthly thereafter, the Director shall publish statistics relating to the dwell time of equipment used in intermodal transportation at the top 25 ports, including inland ports, by 20-foot equivalent unit, including—

(1) total street dwell time, from all causes, of marine containers and marine container chassis; and

(2) the average out of service percentage, which shall not be identifiable with any particular port, marine terminal operator, or chassis provider.

(d) FACTORS.—Subject to the availability of appropriations, to the maximum extent practicable, the Director shall publish the statistics described in subsection (c) on a local, regional, and national basis.

(e) SUNSET.—The authority under this section shall expire December 31, 2026.

SEC. 17. FEDERAL MARITIME COMMISSION ACTIVITIES.

(a) PUBLIC SUBMISSIONS TO COMMISSION.—The Federal Maritime Commission shall—

(1) establish on the public website of the Commission a webpage that allows for the submission of comments, complaints, concerns, reports of noncompliance, requests for investigation, and requests for alternative dispute resolution; and

(2) direct each submission under the link established under paragraph (1) to the appropriate component office of the Commission.

(b) AUTHORIZATION OF OFFICE OF CONSUMER AFFAIRS AND DISPUTE RESOLUTION SERVICES.—The Commission shall maintain an Office of Consumer Affairs and Dispute Resolution Services to provide nonadjudicative ombuds assistance, mediation, facilitation, and arbitration to resolve challenges and disputes involving cargo shipments, household good shipments, and cruises subject to the jurisdiction of the Commission.

(c) ENHANCING CAPACITY FOR INVESTIGATIONS.—

(1) IN GENERAL.—Pursuant to section 41302 of title 46, United States Code, not later than 18 months after the date of enactment of this Act, the Chairperson of the Commission shall staff within the Bureau of Enforcement, the Bureau of Certification and Licensing, the Office of the Managing Director, the Office of Consumer Affairs and Dispute Resolution Services, and the Bureau of Trade Analysis not fewer than 7 total positions to assist in investigations and oversight, in addition to the positions within the Bureau of Enforcement, the Bureau of Certification and Licensing, the Office of the Managing Director, the Office of Consumer Affairs and Dispute Resolution Services, and the Bureau of Trade Analysis on that date of enactment.

(2) DUTIES.—The additional staff appointed under paragraph (1) shall provide support—

(A) to Area Representatives of the Bureau of Enforcement;

(B) to attorneys of the Bureau of Enforcement in enforcing the laws and regulations subject to the jurisdiction of the Commission;

(C) for the alternative dispute resolution services of the Commission; or

(D) for the review of agreements and activities subject to the authority of the Commission.

SEC. 18. TEMPORARY EMERGENCY AUTHORITY.

(a) DEFINITIONS.—In this section:

(1) COMMON CARRIER.—The term ''common carrier'' has the meaning given the term in section 40102 of title 46, United States Code.

(2) MOTOR CARRIER.—The term ''motor carrier'' has the meaning given the term in section 13102 of title 49, United States Code.

(3) RAIL CARRIER.—The term ''rail carrier'' has the meaning given the term in section 10102 of title 49, United States Code.

(4) SHIPPER.—The term ''shipper'' has the meaning given the term in section 40102 of title 46, United States Code.

(b) PUBLIC INPUT ON INFORMATION SHARING.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Federal Maritime Commission shall issue a request for information, seeking public comment regarding—

(A) whether congestion of the carriage of goods has created an emergency situation of a magnitude such that there exists a substantial, adverse effect on the competitiveness and reliability of the international ocean transportation supply system;

(B) whether an emergency order under this section would alleviate such an emergency situation; and

(C) the appropriate scope of such an emergency order, if applicable.

(2) CONSULTATION.—During the public comment period under paragraph (1), the Commission may consult, as the Commission determines to be appropriate, with—

(A) other Federal departments and agencies; and

(B) persons with expertise relating to maritime and freight operations.

(c) AUTHORITY TO REQUIRE INFORMATION SHARING.—On making a unanimous determination described in subsection (d), the Commission may issue an emergency order requiring any common carrier or marine terminal operator to share directly with relevant shippers, rail carriers, or motor carriers information relating to cargo throughput and availability, in order to ensure the efficient transportation, loading, and unloading of cargo to or from—

(1) any inland destination or point of origin;

(2) any vessel; or

(3) any point on a wharf or terminal.

(d) DESCRIPTION OF DETERMINATION.—

(1) IN GENERAL.—A determination referred to in subsection (c) is a unanimous determination by the commissioners on the Commission that congestion of carriage of goods has created an emergency situation of a magnitude such that there exists a substantial, adverse effect on the competitiveness and reliability of the international ocean transportation supply system.

(2) FACTORS FOR CONSIDERATION.—In issuing an emergency order pursuant to subsection (c), the Commission shall tailor the emergency order with respect to temporal and geographic scope, taking into consideration the likely burdens on common carriers and marine terminal operators and the likely benefits on congestion relating to the purposes described in section 40101 of title 46, United States Code.

(e) PETITIONS FOR EXCEPTION.—

(1) IN GENERAL.—A common carrier or marine terminal operator subject to an emergency order issued pursuant to this section may submit to the Commission a petition for exception from 1 or more requirements of the emergency order, based on a showing of undue hardship or other condition rendering compliance with such a requirement impracticable.

(2) DETERMINATION.—The Commission shall make a determination regarding a petition for exception under paragraph (1) by—

(A) majority vote; and

(B) not later than 21 days after the date on which the petition is submitted.

(3) INAPPLICABILITY PENDING REVIEW.—The requirements of an emergency order that is the subject of a petition for exception under this subsection shall not apply to the petitioner during the period for which the petition is pending.

(f) LIMITATIONS.—

(1) TERM.—An emergency order issued pursuant to this section—

(A) shall remain in effect for a period of not longer than 60 days; but

(B) may be renewed by a unanimous determination of the Commission.

(2) SUNSET.—The authority provided by this section shall terminate on the date that is 18 months after the date of enactment of this Act.

(3) INVESTIGATIVE AUTHORITY UNAFFECTED.—Nothing in this section shall affect the investigative authorities of the Commission as described in subpart R of part 502 of title 46, Code of Federal Regulations.

SEC. 19. BEST PRACTICES FOR CHASSIS POOLS.

(a) IN GENERAL.—Not later than April 1, 2023, the Federal Maritime Commission shall enter into an agreement with the Transportation Research Board of the National Academies of Sciences, Engineering, and Medicine under which the Transportation Research Board shall carry out a study and develop best practices for on-terminal or near-terminal chassis pools that provide service to marine terminal operators, motor carriers, railroads, and other stakeholders that use the chassis pools, with the goal of optimizing supply chain efficiency and effectiveness.

(b) REQUIREMENTS.—In developing best practices under subsection (a), the Transportation Research Board shall—

(1) take into consideration—

(A) practical obstacles to the implementation of chassis pools; and

(B) potential solutions to those obstacles; and

(2) address relevant communication practices, information sharing, and knowledge management.

(c) PUBLICATION.—The Commission shall publish the best practices developed under this section on a publicly available website by not later than April 1, 2024.

(d) FUNDING.—Subject to appropriations, the Commission may expend such sums as are necessary, but not to exceed $500,000, to carry out this section.

SEC. 20. LICENSING TESTING.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Motor Carrier Safety Administration (referred to in this section as the ''Administrator'') shall conduct a review of the discretionary waiver authority described in the document issued by the Administrator entitled ''Waiver for States Concerning Third Party CDL Skills Test Examiners In Response to the COVID–19 Emergency'' and dated August 31, 2021, for safety concerns.

(b) PERMANENT WAIVER.—If the Administrator finds no safety concerns after conducting a review under subsection (a), the Administrator shall—

(1) notwithstanding any other provision of law, make the waiver permanent; and

(2) not later than 90 days after completing the review under subsection (a), revise section 384.228 of title 49, Code of Federal Regulations, to provide that the discretionary waiver authority referred to in subsection (a) shall be permanent.

(c) REPORT.—If the Administrator declines to move forward with a rulemaking for revision under subsection (b), the Administrator shall explain the reasons for declining to move forward with the rulemaking in a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 21. PLANNING.

Section 6702(g) of title 49, United States Code, is amended—

(1) by striking ''Of the amounts'' and inserting the following:

''(1) IN GENERAL.—Of the amounts''; and

(2) by adding at the end the following:

''(2) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Subparagraphs (A) and (B) of subsection (c)(2) shall not apply with respect to amounts made available for planning, preparation, or design under paragraph (1).''.

SEC. 22. REVIEW OF POTENTIAL DISCRIMINATION AGAINST TRANSPORTATION OF QUALIFIED HAZARDOUS MATERIALS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Comptroller General of the United States shall initiate a review of whether there have been any systemic decisions by ocean common carriers to discriminate against maritime transport of qualified hazardous materials by unreasonably denying vessel space accommodations, equipment, or other instrumentalities needed to transport such materials. The Comptroller General shall take into account any applicable safety and pollution regulations.

(b) CONSULTATION.—The Comptroller General of the United States may consult with the Commandant of the Coast Guard and the Chair of the Federal Maritime Commission in conducting the review under this section.

(c) DEFINITIONS.—In this section:

(1) HAZARDOUS MATERIALS.—The term ''hazardous materials'' includes dangerous goods, as defined by the International Maritime Dangerous Goods Code.

(2) OCEAN COMMON CARRIER.—The term ''ocean common carrier'' has the meaning given such term in section 40102 of title 46, United States Code.

(3) QUALIFIED HAZARDOUS MATERIALS.—The term ''qualified hazardous materials'' means hazardous materials for which the shipper has certified to the ocean common carrier that such materials have been or will be tendered in accordance with applicable safety laws, including regulations.

(4) SHIPPER.—The term ''shipper'' has the meaning given such term in section 40102 of title 46, United States Code.

SEC. 23. TRANSPORTATION WORKER IDENTIFICATION CREDENTIALS.

(a) DEFINITION OF DIRECT ASSISTANCE TO A UNITED STATES PORT.—In this section:

(1) IN GENERAL.—The term ''direct assistance to a United States port'' means the transportation of cargo directly to or from a United States port.

(2) EXCLUSIONS.—The term ''direct assistance to a United States port'' does not include—

(A) the transportation of a mixed load of cargo that includes—

(i) cargo that does not originate from a United States port; or

(ii) a container or cargo that is not bound for a United States port;

(B) any period during which a motor carrier or driver is operating in interstate commerce to transport cargo or provide services not in support of transportation to or from a United States port; or

(C) the period after a motor carrier dispatches the applicable driver or commercial motor vehicle of the motor carrier to another location to begin operation in interstate commerce in a manner that is not in support of transportation to or from a United States port.

(b) TRANSPORTATION WORKER IDENTIFICATION CREDENTIALS.—The Administrator of the Transportation Security Administration and the Commandant of the Coast Guard shall jointly prioritize and expedite the consideration of applications for a Transportation Worker Identification Credential with respect to applicants that reasonably demonstrate that the purpose of the Transportation Worker Identification Credential is for providing, within the interior of the United States, direct assistance to a United States port.

SEC. 24. USE OF UNITED STATES INLAND PORTS FOR STORAGE AND TRANSFER OF CARGO CONTAINERS.

(a) MEETING.—Not later than 90 days after the date of enactment of this Act, the Assistant Secretary for Transportation Policy, in consultation with the Administrator of the Maritime Administration and the Chairperson of the Federal Maritime Commission, shall convene a meeting of representatives of entities described in subsection (b) to discuss the feasibility of, and strategies for, identifying Federal and non-Federal land, including inland ports, for the purposes of storage and transfer of cargo containers due to port congestion.

(b) DESCRIPTION OF ENTITIES.—The entities referred to in subsection (a) are—

(1) representatives of United States major gateway ports, inland ports, and export terminals;

(2) ocean carriers;

(3) railroads;

(4) trucking companies;

(5) port workforce, including organized labor; and

(6) such other stakeholders as the Secretary of Transportation, in consultation with the Chairperson of the Federal Maritime Commission, determines to be appropriate.

(c) REPORT TO CONGRESS.—As soon as practicable after the date of the meeting convened under subsection (a), the Assistant Secretary for Transportation Policy, in consultation with the Administrator of the Maritime Administration and the Chairperson of the Federal Maritime

Commission, shall submit to Congress a report describing—

(1) the results of the meeting;

(2) the feasibility of identifying land or property under the jurisdiction of United States, or ports in the United States, for storage and transfer of cargo containers; and

(3) recommendations relating to the meeting, if any.

(d) SAVINGS PROVISION.—No authorization contained in this section may be acted on in a manner that jeopardizes or negatively impacts the national security or defense readiness of the United States.

SEC. 25. REPORT ON ADOPTION OF TECHNOLOGY AT UNITED STATES PORTS.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report describing the adoption of technology at United States ports, as compared to that adoption at foreign ports, including—

(1) the technological capabilities of United States ports, as compared to foreign ports;

(2) an assessment of whether the adoption of technology at United States ports could lower the costs of cargo handling;

(3) an assessment of regulatory and other barriers to the adoption of technology at United States ports; and

(4) an assessment of technology and the workforce.

SEC. 26. AUTHORIZATION OF APPROPRIATIONS.

Section 46108 of title 46, United States Code, is amended by striking ''$29,086,888 for fiscal year 2020 and $29,639,538 for fiscal year 2021'' and inserting ''$32,869,000 for fiscal year 2022, $38,260,000 for fiscal year 2023, $43,720,000 for fiscal year 2024, and $49,200,000 for fiscal year 2025''.

Mr. SCHUMER. Mr. President, I further ask that the committee-reported amendment be withdrawn; that the amendment, which is at the desk, be considered and agreed to; and that the bill, as amended, be considered read a third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee-reported amendment, in the nature of a substitute, was withdrawn.

The amendment (No. 5017), in the nature of a substitute, was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SCHUMER. Mr. President, I know of no further debate on the bill.

The PRESIDING OFFICER. If there is no further debate, the bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 3580), as amended, was passed.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, the Senate has just passed very significant and much needed legislation that will reduce costs for the American people by passing a bipartisan bill to reform unfair shipping practices hurting exports and consumers alike.

We have all seen pictures of scores of ships lining up in ports from Los Angeles to Seattle, to New York, to Savannah. Supply chain backlogs have made it harder for goods to leave these ports and get to their international destinations.

Every single day that goods lie idle in our ports, it costs producers more and more money. It is a serious problem, rippling from one coast to the other.

These backlogs have created serious price hikes. Today, according to one study, the price to transport a container from China to the west coast of the United States costs 12 times as much as it did 2 years ago—12 times. Talk about supply chain backlogs. This is it—a glaring, glaring example.

And, of course, it hurts both ways when shipping costs go up. It affects exports that we send overseas. It affects many of our farmers, who need to export their goods. It also affects the imports that come back. It affects all the goods that Americans buy from overseas—appliances and food and so many other things.

When the cost of shipping is higher, the cost of the goods are higher, and people have to pay too much—a whole lot more.

At the end of the day, it is the American consumer that pays the higher price. Thankfully, this bill will make it harder for ocean carriers to unreasonably refuse American goods at our ports while strengthening the Federal Maritime Commission's ability to step in and prevent harmful practices by carriers.

This bipartisan shipping bill is exactly the sort of thing that the Senate should focus on. It is cost cutting; it is bipartisan; and it will directly give relief to small businesses and consumers alike.

And I would like to thank a good number of my colleagues who helped with this legislation. It was put together and sponsored in a bipartisan way by Senators KLOBUCHAR and THUNE. And Senator CANTWELL, who understands the maritime industry probably better than any other Member in this Chamber, was relentless in pushing this legislation. It went through her committee, and now it has passed the Senate and, hopefully, will become law soon, and she deserves our kudos and accolades for the good job she has done for American consumers, farmers, manufacturers, and everybody else.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Ms. BALDWIN. Mr. President, I rise today in support of Mr. Alex Wagner, the President's nominee to be Assistant Secretary of the Department of Air Force for Manpower and Reserve Affairs; and Mr. Ashish Vazirani, nominee to be Deputy Under Secretary for Personnel and Readiness.

As a Member of the Defense Appropriations Subcommittee, I know that the most important investment for our national security is in our servicemembers—our real competitive advantage with Russia and China.

Mr. Wagner brings a combination of public and private sector experience to the table. He will be key in recruiting, training, and retaining the talent needed to compete in the 21st century.

Absent his leadership, we may miss important opportunities to invest in our servicemembers at a time when we are still standing up a new military branch, the Space Force.

Mr. Vazirani will be responsible for ensuring that we take care of our people, a priority for the Secretary and everyone in this body.

Mr. Vazirani has significant private sector experience as a consultant and manager. Further, he served in the Navy and is the father of a marine. He has the firsthand experience and knowledge that we need to help improve the opportunities available to military families and spouses.

Both of these nominees are needed to help implement important priorities, like the Independent Review Commission's sexual assault recommendations, improving diversity in the force, and addressing mental health and suicide.

Both of these nominees are focused on taking care of our people and ensuring the Department has in place the workforce with the skill sets that we need to be successful in strategic competition with Russia and China.

Put simply, if you are serious about countering Russia and China, you should allow these nominees to be confirmed. And if you are serious about taking care of those who serve, you should allow these nominees to be confirmed.

Therefore, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations, en bloc: Calendar Nos. 477 and 599; that the Senate vote on the nominations, en bloc, without intervening action or debate; that the motions to reconsider be considered made and laid upon the table; that any statements related to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Missouri is recognized.

Mr. HAWLEY. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. HAWLEY. Mr. President, it is now March. It has been 7 months since the disastrous withdrawal from Afghanistan.

Thirteen servicemembers lost their lives in the attack on Abbey Gate along with hundreds of civilians. As a result of the botched evacuation operation, hundreds, if not thousands, of American civilians were left behind to the enemy.

We hear from our friends on the other side of the aisle that my insistence that we actually vote on nominees is unprecedented. I would humbly suggest that the Afghanistan crisis into which this President led our country was unprecedented.

And who has been held accountable for that disaster? No one. Who has the President fired? Who has offered their resignation? Which of the planners at the Department of State or the Department of Defense or the National Security Council have been relieved of duty? No one.

Until there is accountability, I am going to ask that the Senate do the simple task of its job, which is to actually vote on these nominees. The least we could do is observe regular order and vote on these leadership positions at the Department of Defense.

My colleagues say that we have got to put national security first. I agree with them about that. But I believe that begins at the top, with the President of the United States and the leadership of the Department of Defense and the Department of State. I, for one, am not going to stand by and look the other way while this administration systematically endangers our national security, imperils the American people, and watches the sacrifice of our soldiers go by without any accountability, without any change in direction.

Accountability for the Afghanistan disaster is all the more urgent given revelations last month from the U.S. Central Command investigation of the Abbey Gate bombing. The investigative report makes clear that the Administration had ample warning prior to mid-August that Kabul could collapse rapidly in the face of the Taliban's offensive. It shows further how the Administration refused to acknowledge those warnings and act in a timely manner to prepare for Kabul's fall. And it shows in astounding detail just how chaotic the final evacuation effort was, with U.S. servicemembers often left without clear guidance, the State Department constantly missing in action, and the Administration itself intent only on evacuating as many people as possible, regardless of whether those individuals were eligible for evacuation or might pose a threat to America's own security.

I am not willing to look the other way and just pretend that Afghanistan didn't happen, which seems to be the posture that many in this body have adopted. I am not willing to do that. I can't do that because I promised the parents of the fallen that I wouldn't do that.

I am going to discharge my responsibility. And as long as it takes, I will continue to draw attention to what happened at Abbey Gate and to demand accountability for the disaster that this administration has pushed upon this country and upon the people of my State.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Ms. BALDWIN. I am disappointed that my Republican colleague blocked confirmation of these nominations.

These nominees have been held up since last year. They were approved by the Armed Services Committee with a bipartisan vote and only one Member recorded as a no. It is time to end these delays and confirm these nominees.

I yield the floor.

I suggest the absence of a quorum.

Mr. VAN HOLLEN. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNIZING THE COMMISSIONING OF THE USS ''DELAWARE''

Mr. CARPER. Mr. President, I rise today to mark a moment in history for the First State, your neighboring State, to celebrate the first U.S. Navy vessel to be named after Delaware in more than 100 years.

In 2 days, I will be joined by the Secretary of the Navy, the First Lady of the United States, and what will feel like half of Delaware at the Port of Wilmington to commemorate the commissioning of the Virginia Class of nuclear submarine, the USS *Delaware*.

And while the vessel was first officially commissioned underwater and underway on a mission at sea due to the COVID restrictions on April 4, 2020—a first in Navy history—a first in Navy history—this weekend, we will get to give the USS *Delaware*, its crew, and the people of Delaware a fitting celebration above the surface of the water.

It has been a long time coming for the USS *Delaware*. So many people across Delaware and in the Navy have worked hard not just for weeks, not just for months, but for years to make this weekend a reality for our State and the crew.

I would be remiss not to mention my wingman in the U.S. Senate, Senator CHRIS COONS, and our wing-woman in the U.S. House of Representatives, LISA BLUNT ROCHESTER, as well as our Governor John Carney for their longstanding support for the USS *Delaware*. They will be joining us on Saturday to celebrate.

You probably wouldn't be surprised to learn that SSN 791—that is the number assigned to the USS *Delaware*, is not the first Navy vessel to bear the name ''Delaware.''

The first USS *Delaware* was launched in 1776. Its role? Delaying the British Fleet's approach to Philadelphia and thus impeding the ability of the British to resupply their army in our War of Independence. That was the first USS *Delaware*.

The sixth USS *Delaware* was completed in April of 1910. Armed with ten 12-inch guns, it was the most powerful battleship in the world at the time. Over 100 years would pass before another US Naval vessel would bear the name ''Delaware.''

Then, one day in 2012, I came across a letter to the editor from a constituent in Delaware whose name is Steven Llanso. He wrote to the editor. He said: You know, it has been a long time since a ship was built and named after the State of Delaware. Maybe somebody should do something about it.

I thought about it for a while. I thought about it for a couple of weeks, actually. I pulled my staff together and said, ''Why don't we do something about this?'' And they said ''Let's do,'' and we did.

The next week, I was on the phone with then-Secretary of the Navy Ray Mabus, former Governor of Mississippi—us both being former Governors—and a long-time friend, and he would go on to become the longest serving Secretary of the Navy in the history of our country.

I explained the situation to Secretary Mabus. He graciously heard me out and agreed 100 years was a long time. Before we hung up, he said to me, ''Let me think about it, Tom. I will get back to you in a couple of months.'' And true to his word, 3 months later, he gave me a call and said that over the next several years, the Navy would begin construction on not one, not two, but three, maybe four Virginia Class nuclear submarines, and the first one off the line would be named the USS *Delaware*.

Now, I was talking on a mobile phone, but if I had a landline—if I was talking with him through a landline, I could have reached through the landline and kissed him. I was so happy. And I didn't do that. But it was a wonderful moment, one that I relished in, and I certainly do today. He is a great friend, a great leader of the Navy then and a patriot, and he has done so many things for our country. So thank you, Ray.

So this weekend, almost a decade since I first spoke with then-Secretary Mabus, I will have the honor of finally introducing the newest USS *Delaware* to the people of Delaware. And there is a whole lot of it to take in.

The USS *Delaware* is a Virginia Class U.S. nuclear submarine. The *Delaware* will carry 26 MK–48 torpedoes, which enable it to conduct the sub's more traditional role of tracking and, if necessary, sinking enemy submarines, as well as a wide range of surface vessels.

The *Delaware* is also designed for versatile operations in shallow water, closer to land, performing reconnaissance activities, delivering Special Forces. It is also configured to launch Tomahawk cruise missiles which can be launched while the *Delaware* is on patrol. The Tomahawk can strike targets nearly 1,000 miles away with pinpoint—pinpoint—accuracy.

This is one hell of a fighting machine. You know, they have a saying down in Texas you have probably heard. It says ''Don't mess with

Texas,'' and I would just add to that, to our adversaries, ''Don't mess with the USS *Delaware* because, if you do, we will eat your lunch. I promise.''

And, oh, yes. There are 136 crewmembers aboard the USS *Delaware*. They hail from 20 States across our country. Almost half of the States are represented in the crew of our sub. The crew also includes 15 officers and 121 enlisted men, a dozen or so who are chief petty officers. My dad was a chief petty officer for nearly 30 years, World War II and beyond. And he always told me when I was a midshipman, he used to say, ''Tom, the chiefs run the Navy.'' And you know, they did, and my guess is they still do.

But in addition to having an opportunity to introduce the crew of the USS *Delaware* to the people of Delaware this weekend, we will also have an opportunity to introduce Delaware to the crew of the State that they are representing.

With tongue in cheek, I like to describe Delaware as the 49th largest State in the Union, and it is comprised of three counties and 1 million people. We are about 100 miles from north to south and about 50 miles from east to west along our southern border with Maryland, the Presiding Officer's State.

Native Americans, including the Lenape Indians, lived in Delaware for hundreds of years before the Dutch arrived some 400 years ago and established Lewes, DE, the first town in the first State, located where the Atlantic Ocean meets the Delaware Bay.

A quick story: The Dutch were not all that kind to these Native Americans who lived in that greater area which is now Lewes. And the Native Americans literally wiped out the Dutch colony. Later on, the Dutch would come back in greater numbers, be more kind to the Native Americans, and the colony of Lewes grew and prospered.

The British looked askance at this and worried about the growth of this Dutch colony surrounded by British settlements and forces. One night, the Dutch went to bed to sleep in Lewes, DE, and the Brits burned the town to the ground. The next morning, when the Dutch surveyed what happened, there was one house still standing, the Ryves Holt House, believed to be maybe the oldest permanently standing house in North America. The Ryves Holt House is now a part of a national park.

Later on, in 1631, the first Swedes and Finns sailed by what would become the Port of Wilmington. Their sailing ships—the Kalmar Nyckel and the Fogel Grip—took a turn to the west for a couple miles on a smaller river that they named the Christina after Sweden's 12-year-old child queen. Along its banks, they established the colony of New Sweden, where Wilmington stands today. The church they built there is believed to be perhaps the longest continuously serving church in North America—Old Swedes church—and believe it or not, there are now more Swedish-Americans than there are Swedes in Sweden.

Fifty-one years later, William Penn would sail up the Delaware, past Wilmington, past the Port of Wilmington now, to what is called Penn's Landing, about 25 miles north of Wilmington, and carried with him the deeds from the King of England to what would later become the Colony of Pennsylvania and something called ''the Lower Three Counties.'' That would be us, Delaware. But the real Penn's Landing, ironically, was in what is now New Castle, DE—not Pennsylvania, but New Castle, DE.

And there is a legend. Legend has it that not only did he stop there, but he spent the night in Delaware. And later on, he was asked why did he stop in Delaware, and he said, ''Tax-free shopping.'' ''Tax-free shopping.''

A few hundred years later, up the Christina River, 10,000 shipbuilders, mostly women, would build many of the ships, including destroyer escorts and troop landing ships that enabled us to emerge victorious in World War II. And that is only part of the storied history that the USS Delaware joins today.

Throughout Delaware history, the letter ''C'' has figured prominently. Our first settlers planted corn—a lot of it. They raised chickens, a lot of them, and fed them corn. Our State bird is, believe it or not, the ''fightin''' blue hen. Today, there are nearly 300 chickens for every person who lives in the First State of Delaware. Later, we become known as the ''Chemical Capital of the World.'' Thank you, DuPont, for hundreds of amazing, amazing inventions. Delaware's coastline is not large, but the last I checked, it was home to the most five-star beaches than any other State coastline in America—and one of them is Rehoboth. And Rehoboth is a name that is translated to mean ''room for all.''

Not long ago, we built more cars in Delaware per capita than any other State. Not surprising is that they were Chryslers and Chevrolets.

And while we have no sales tax, Delaware is the home of incorporation of half the Fortune 500 and half the New York Stock Exchange. So corporations are important to us. While I don't know what credit card is in the wallet of most of the people on the floor today, there is a good chance it is issued by a bank with operations in Delaware.

Now, that is a lot of C's, but even our political leaders have gotten into the act with names like Carvel, former Governor; Castle, former Governor; Carney, current Governor; COONS, our senior Senator; and CARPER, his wingman. And even though Joe Biden didn't start out as one of the C-boys, he was close, just off by one letter. Joe Biden has ended up, as you know, as our Nation's Commander-in-Chief. That is a lot of C's put together in a very nice way. Not bad for a scrappy kid from Scranton, PA.

By far, the greatest contribution that Delaware has made since the founding of our country occurred on December 7, 1787, when Delaware became the first State to ratify our Constitution. I like to say we are the first to ratify, followed shortly thereafter by Maryland, Pennsylvania, and others; but for 1 whole week, Delaware was the entire United States of America. We opened it up and let others in. And I think for the most part, it turned out pretty well, at least until now. But the Constitution that we ratified on December 7, 1787, would become the most enduring Constitution in the history of the world and by far the most replicated.

You know, none of us are perfect—certainly not me—and our Constitution was not perfect either; but over time, we have made it better, a lot better. Along with the Bill of Rights, it provides a framework, if you will, and a path that has made our country the envy of much of the rest of the world.

But at the end of the day, our Constitution and our Declaration of Independence are words on a piece of paper without the resolve made real by the commitment and sacrifice of men and women who wear and have worn the uniform of our country.

Let me end with this. I suspect that most of my colleagues remember studying the Constitution in school—maybe in grade school, maybe in middle school. I remember it. In fact, my sister and I had to learn and actually recite the Preamble in middle school. As you know, it begins with something like this:

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution of the United States of America.

The Preamble of our Constitution doesn't say ''in order to form a perfect Union''; it says ''a more perfect Union.'' Why is that? Because as citizens of our great country, it is up to each of us to do our part to ensure that the arc of American history bends toward perfection and justice, even knowing that we will probably never fully achieve it.

The men who serve and will serve aboard the USS *Delaware* will bear our State's namesake literally for decades to come, maybe a half-century or more, in defense of our Nation. The crewmembers are answering the call of our Nation written over 230 years ago. Through their sacrifice, through their service, may we grow even closer to that more perfect Union. We are—I know I am—grateful for their service today.

May God bless and protect the crew of the USS *Delaware*, both now and in the decades to come, and may each of us live our own lives in ways to ensure

that America remains a nation worthy of their sacrifice so that a government of the people, by the people, and for the people will not perish from this Earth.

USS *Delaware*, long may she sail.

And before I yield back my time, I guess we have been joined on the floor by our friend and colleague, JOHN CORNYN from Texas. And Senator CORNYN, I think maybe before he arrived, I used the phrase—I acknowledged the phrase, ''Don't mess with Texas.'' ''Don't mess with Texas.'' And I went on to explain all the weapons systems that the USS *Delaware* has on board. It is a pretty amazing, incredible submarine. And I said: It is all right not to mess with Texas, but you better not mess—for our adversaries, you better not mess with Delaware, either.

With that, I yield the floor to my friend from Texas, Senator CORNYN.

The PRESIDING OFFICER. The Senator from Texas.

NOMINATION OF KETANJI BROWN JACKSON

Mr. CORNYN. Mr. President, next week, the Senate will vote on the confirmation of Judge Ketanji Brown Jackson to serve as a member of the Supreme Court of the United States.

Since Judge Jackson's nomination was announced, I made it clear that I would go into this process with an open mind, just as I have tried to do with each Supreme Court nominee who has come before the Judiciary Committee during my time in the Senate. This is now my eighth Supreme Court Justice to participate in the confirmation of.

Now, I have seen the good, the bad, and the ugly when it comes to judicial confirmation hearings, and I know that some people expressed concerns about the tough questions that Judge Jackson fielded. I thought she did a credible job answering those questions. She is obviously incredibly smart, but I found her personally very charming as well.

Judge Jackson has received two degrees from Harvard, completed a Supreme Court clerkship, and served on the Federal bench for nearly a decade. I hear no one questioning Judge Jackson's legal credentials, but a lifetime appointment to the Supreme Court requires a lot more than just the right resume. Our constitutional Republic requires judges who rule based on the law, not based on their personal policy preferences or beliefs and certainly not based on a result and working your way back to a justification for that particular result. Judges are required to go wherever the law may lead them.

Justice Scalia, during his lifetime, said: If you haven't made a decision as a judge that you personally disagree with because the law compels it, you are really probably not doing your job as a judge. And I think there is a lot of truth to that. As I say, the job is not to start with the desired result and work backwards and cherry-pick the legal reasoning to justify the decision.

The question we tried to answer—those of us who serve on the Judiciary Committee—last week is, Where would Judge Jackson fit in this mold if confirmed to the Supreme Court? Would she be an impartial umpire who follows the letter of the law or would she attempt to legislate from the bench? The reason that is important is because, under our Constitution, Members of the Senate are supposed to legislate. But that is also the reason why we run for election, and we are held accountable each election for the votes we take and the policy positions we embrace. That is how public policy in America is supposed to be made, not by judges who serve for a lifetime and whom the voters cannot unelect, like they can Members of the Senate. That is why their job is very different.

Before Judge Jackson was named as the nominee for this seat, President Biden outlined what he was looking for in a candidate. Among the many qualities and beliefs that he specified, the President said, tellingly, he wanted someone with a judicial philosophy that ''suggests that there are unenumerated rights in the Constitution, and all the amendments mean something, including the Ninth Amendment.'' Those are code words, and let me explain.

This wasn't a one-off comment by President Biden. He even said on the campaign trail that he would not nominate somebody for the Supreme Court who did not have a view that unenumerated rights exist in the Constitution. Now, translated into English, that is tantamount to saying that judges shouldn't be bound by a written Constitution.

You might wonder, if they are not bound by the text and the words of the Constitution, where does their authority come from?

The President stated and restated a litmus test for his desired Supreme Court candidate, and he has clearly determined that Judge Jackson fits the bill. So I spent my time during the Judiciary Committee hearing asking her about unenumerated or what you might call invisible rights during her confirmation hearing—invisible because they are not in the text.

I told Judge Jackson it is deeply concerning to me and to the people I represent that five unelected and unaccountable Justices could upend the will of the people by invalidating laws or inventing a new right out of whole cloth. We talked a lot about substantive due process. I suggested that she and I nerd out together, since that is not a topic that people typically talk about around the kitchen table, but maybe they do in a sense I will talk about in a moment.

Substantive due process is this theory that somehow, when you combine the 5th Amendment due process clause with the 14th Amendment due process clause, that out of that formula, unwritten and invisible rights can suddenly appear. This is really just judge-made law.

We have seen many examples of this. For example, in Plessy v. Ferguson, the Supreme Court established the shameful doctrine of separate but equal when it came to the treatment of African Americans in our country. Thankfully, that was later overruled by Brown v. Board of Education. But it is an example of the sort of horrific outcomes that can occur when judges—five judges, unelected, lifetime tenured—decide to become policymakers in their own right.

Perhaps most famous in legal circles—certainly in law school—you learn about Lochner v. New York. That was another example of substantive due process where the Supreme Court invalidated some labor regulations with regard to how long bakers could work. In that, the Supreme Court discovered a freedom to contract right—again, nowhere written in the Constitution but another example of a result-oriented outcome based on unwritten constitutional rights.

Now, one of the most famous examples is Roe v. Wade in which the Supreme Court found a constitutional right to an abortion. I asked Judge Jackson if the word ''abortion'' or the word ''marriage'' was found anywhere in the Constitution, and she agreed with me that, no, they are not mentioned in the Constitution.

Now, here is my point. It is not the outcome necessarily, because substantive due process can be used for good or for ill. In other words, the good is when I agree with the outcome, and the ill is when I disagree. But the main problem is that unelected judges are making policy, binding the entire country under the guise of substantive due process, which is nothing but judicial lawmaking. So this doctrine of substantive due process can be used for things you agree with and things you disagree with.

The point is that this has, I think, helped us hone in on the limitless abilities of five Justices to discover new rights that aren't even mentioned in the Constitution and then to eliminate any sort of debate or democratic process where people actually get to vote on public policies because essentially the Supreme Court has taken the issue out of the public square. They said: We have already decided it, and we don't really care what you think.

Even Justice Hugo Black, a noted liberal in the classical sense, said the due process clause itself in the 5th and 14th Amendments was designed to make certain that men would be governed by law, not the arbitrary fiat of the man or men in power. And you would have to update to say ''man or woman,'' obviously.

We all know judges on the Supreme Court and on the Federal bench are unelected and therefore unaccountable to the people. Federal judges discovering rights that do not exist in the written Constitution essentially provides a rudderless and, I would argue, eventually lawless authority to the Supreme Court.

The very nature of our three branches of government is to divide responsibilities among those branches.

As I mentioned, the political branches are the executive branch, the President; legislative branch, obviously that is Congress, the House and the Senate. Our job is far different, and it is important to have judges understand their limited but vital role under the Constitution. Their job is to interpret the laws as written, not to make them up as you go along or to use a smokescreen, like substantive due process, to identify new rights that do not appear anywhere in the Constitution.

If the American people want to amend the Constitution, which they have done 27 times during our Nation's history, there is a way to do that. Sure, it is a tough battle. You have to win a supermajority of both Houses, and you have to get it ratified by the States. But you can do it, and it has been done 27 times.

But there are people who want to take a shortcut, and they want judges to abuse their authority by identifying these unwritten rights.

Well, what is at stake when that happens? When judges invent new rights, decide issues that are not in their lane, as Judge Jackson liked to say—she would say ''making policy is not in my lane''—or when a judge acts as a policymaker, like Congress is supposed to do, like the executive branch is supposed to do, when judges act that way, they necessarily undermine the American people's right to choose.

The Declaration of Independence notes that the authority of government is derived from the consent of the governed. But how do judges, when they identify unmentioned rights out of whole cloth, how do we, as the American people, get to consent or withhold that consent? Thus, it is easy to see how judge-made law and these smokescreens, like substantive due process, are really methods by which some members of the judiciary undermine the basic and fundamental premise and legitimacy of our laws because the consent of the governed to those judges is irrelevant.

Now, one unfortunate consequence of judge-made law that is not in the Constitution as written, is that anybody who disagrees with you—and this act of judicial activism—can easily be accused of discrimination or even labeled a bigot, even if their belief is derived from religious conviction, which is expressly protected by the Constitution. This is what happens when invisible rights conflict with rights that are actually written into the Constitution, like the First Amendment, like the right to religious liberty.

President Biden assured the American people that he would nominate somebody who believed in unenumerated rights, so I asked Judge Jackson a logical question: What unenumerated rights are there?

The American people deserve to know. Certainly, in casting our vote for or against a nomination, the Senate deserves to know. But she refused to provide an answer.

This isn't the only place where Judge Jackson was less than candid. My colleagues and I repeatedly asked Judge Jackson about her judicial philosophy, a standard question during these confirmation hearings. Now, Judge Jackson has a marvelous legal education. She has vast practical experience because she was a public defender, a Federal district judge, a circuit court judge, and now will serve on the Supreme Court.

So when you ask a judge with that sort of pedigree, ''Tell us about the way you decide cases: What is your judicial philosophy?'' Well, it is not a trap or a trick question. It is something that every Supreme Court nominee has been asked to describe.

Most recently, Judge Barrett identified her judicial philosophy, describing herself as a ''textualist'' and an ''originalist.'' Now, those are awkward terms, but I think what that means is she believes in interpreting the law as written and as understood at the time it was written. That is what she refers to as a ''written Constitution.''

Judge Jackson previously suggested she didn't have a judicial philosophy at all—something I find impossible to believe with somebody with this sort of experience and background and incredibly impressive education.

During her confirmation hearing, she failed to provide much clarity beyond offering vague statements about her methodology. But her methodology is not a philosophy. We need a clear understanding of how Judge Jackson views judge-made law and the invisible—you might say ''unenumerated,'' in the words of President Biden—rights that she finds in the Constitution.

In order for me to fulfill my responsibility as a Member of the Senate to provide advice and consent, I need to know and understand how Judge Jackson interprets the law and the Constitution, not asking her to make specific commitments on results or outcomes. I would never do that because judges are supposed to interpret, apply the law to a case-by-case method. But after repeated questioning, the judge refused to answer that question.

The prism or philosophy through which a Supreme Court nominee views the law and interprets the Constitution is a critical indicator for determining if the judge will ''stay in her lane''—again, those were the terms that Judge Jackson used—or whether she will become a policymaker that President Biden and outside groups like Demand Justice want her to be.

Demand Justice is an advocacy group that advocates defunding the police and progressive solutions to society's problems. They don't want her calling balls and strikes; they want her putting her thumb on their side of the scale and judging in a results-oriented fashion.

As I reviewed Judge Jackson's record, I saw some examples of activism bleeding through her decisions. One of Judge Jackson's opinions from her time on the DC district court demonstrates the serious concerns that I have about her ability to follow the letter of the law as expressed by Congress as opposed to her personal preferences.

In the case Make the Road New York v. McAleenan, a progressive organization challenged the Trump administration's regulation of expedited removal proceedings for people who illegally enter our country without the appropriate paperwork. The Immigration and Nationality Act gives the Department of Homeland Security ''sole and unreviewable discretion'' to apply expedited removal proceedings. Expedited removal is actually a deterrent for illegal immigration because if migrants realize that without authorization they enter the country and they are going to be removed on an expedited basis, a whole lot of them won't spend the money and take the time on that dangerous journey from their home to our shores or to our border if they know they are not going to be successful. So this was not a minor matter. But the Immigration and Nationality Act doesn't leave any gray area for interpretation. Sole and unreviewable discretion is as clear as it comes.

Judge Jackson, who presided over this case, decidedly did not stay in her lane. She went beyond the unambiguous text to deliver a political win to a progressive group and, in the process, entered an injunction barring the use of this tool that is needed by our Border Patrol and immigration authorities in order to deter people from violating our immigration laws.

Unsurprisingly, her decision was appealed and ultimately overturned by the DC circuit court. I think this is a clear-cut example of Judge Jackson ignoring the law as written in order to achieve a result that she preferred.

The critical point to underscore is that as Members of Congress, we are elected and accountable. We can get elected, and we can get unelected when our constituents don't like what we are doing. But our authority comes from the electoral process, which is another way of saying the consent of the governed, as I mentioned, in the Declaration of Independence.

With each bill that is signed into law, we are interacting with the will of our constituents. And if they don't like what we are doing, you can bet we hear from them and certainly will in the next election, if not before.

But by ignoring these laws passed by Congress and signed by the President, Judge Jackson is doing more than just disregarding Congress; she is rejecting the right of the American people to govern themselves, to consent to the laws or withhold their consent.

If given a lifetime appointment to the Supreme Court, I have to wonder: How many other laws would Judge Jackson ignore? How many other precedents would she seek to overturn simply because she doesn't agree with them? How far would she go to achieve

a specific result by discovering unenumerated and, hence, invisible rights, whether it relates to immigration, abortion, religion, the Second Amendment, or anything else you might imagine that the Supreme Court might consider?

The separation of powers between the three coequal branches of government is a central feature of our constitutional democracy. Not only do we have three branches, we also have multiple levels of Federal, State, and local governments—a Federal system. That is because the Founders of this great country and the people who ratified the Constitution believed that the best way to protect their liberty was by enacting checks and balances on the authority of government because they didn't trust any person to stay in their lane. They wanted checks and balances to make sure there was a method of enforcing elected officials, including judges, to stay in their lane.

Sixth Circuit Chief Judge Jeffrey Sutton recently wrote a book whose title sums up the overarching debate with a single, succinct question. Ultimately, this is a question of who decides. Do we the people decide? Do our elected representatives whom we delegate the authority to make decisions on our behalf, do they decide or do unelected, lifetime-tenured, unaccountable Federal judges—are they free to be roaming policymakers, enacting judge-made law, which actually contradicts or conflicts with the will of the American people, as evidenced by the laws passed by their elected representatives? When there is a conflict between the different levels or branches of government, who decides is how we determine who holds the power to make decisions that impact every citizen in this country. And as I said, all power, political and government authority, is derived from the people.

Voters select Senators, Congressmen, even the President of the United States, but they have no direct say in the process of selecting Supreme Court Justices. That is why our responsibility, part of the Constitution known as advice and consent—that is why our constitutional obligation is so important.

We have the responsibility to determine whether a nominee understands the important but limited role of Federal judges and can be expected to act with restraint, fairness, impartiality, and ultimately in the best interest of the American people.

Ultimately, I fear Judge Jackson has a blind spot when it comes to judge-made law, and she would use her seat on the Supreme Court to create new rights out of whole cloth and engage in result-oriented decision making.

For that reason, I will oppose Judge Jackson's confirmation to the Supreme Court of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I am here on a very important bipartisan bill, but I first wanted to address the fact that I am proud to be supporting Judge Jackson.

I think she has incredible legal experience—more experience as a judge going into the job than four of the people had when they went on to the Supreme Court.

She is in the top two for trial experience. She showed incredible grace under pressure when one over-the-top, inappropriate question was asked of her after another.

She will be walking into that Supreme Court with her head held high, and she is going to be confirmed next week.

As I said, I will speak more to this later. I spoke a lot about it in the Judiciary Committee, but she is going to be a great Supreme Court Justice.

OCEAN SHIPPING REFORM ACT

Mr. President, I rise today to highlight my bill with Senator THUNE, which just passed the Senate, the Ocean Shipping Reform Act.

We worked for months together on this bill to come to an agreement. We did everything right and got cosponsors on both sides of the aisle. I particularly want to thank Baz, my staff member on the Commerce Committee, who did such a great job in working on this. And I also want to thank Senators CANTWELL and WICKER for their support of the bill as the chair and ranking member on the Commerce Committee. We worked together on some changes to the bill, and I appreciated their input.

As U.S. Senators representing Minnesota and South Dakota, Senator THUNE and I know how crucial it is for American businesses to be able to export throughout the country and across the globe. American farmers feed the world, and consumers and businesses look to them for in-demand agricultural goods like soybeans, corn, dairy, poultry, pork, and beef, just to name a few. And American manufacturers support so many of the essential parts and products that fill our jobs, businesses, and store shelves.

As I look at our economy as we come out of this economic downturn, we must be an economy and a country that makes stuff, that invents things, that exports to the world. No matter how much American ingenuity we have—and there is a lot of it—if ships owned by foreign interests are going to other countries with empty containers and exporting nothing but air and then come to our country filled with foreign goods, that is not exactly an even playing field.

As the past 2 years have highlighted, significant supply chain disruptions and vulnerabilities have occurred. There are many answers here, one of them being workforce, one of them being port infrastructure and rail infrastructure and the like, but what we have seen when it comes to shipping—and I am so glad my colleague from South Dakota has joined me here on the floor—what we have seen in the middle of the country, where people are pretty sensible, all of a sudden they are looking at this, and they see the price of shipping containers increase by four times in just 2 years. Four times—that is not normal.

We have also heard from U.S. companies that they have only been able to ship 60 percent of their orders because they can't access the shipping containers. At the same time, these ocean carriers—almost all foreign-owned—have reported record profits. It is estimated that the container shipping industry made a record $190 billion in profits in 2021, a sevenfold increase from the previous year.

Their financial performance isn't a result of improved performance when our manufacturers and farmers can't ship out their goods, no. They are fleecing consumers and exporters because they know they can get away with it, and this is all while exporters and consumers are literally paying the price for the supply chain disruptions caused by unreliable service.

(Ms. CORTEZ MASTO assumed the Chair.)

We need to get exports to those who need them, but it is plainly obvious that the ocean carriers are prioritizing non-American shipments at the expense of both American exporters—as in manufacturers, so many of them in Minnesota and South Dakota, as Senator THUNE knows, being small businesses—as well as farmers and American consumers. It isn't sustainable, and it isn't acceptable. We can't let ocean carriers slow down our supply chain while shaking down our American businesses and farmers for their own profit.

That is why we introduced the Ocean Shipping Reform Act. It just passed the Senate. Our bill protects American farmers and manufacturers by making it easier for them to ship ready-to-export goods waiting at our ports. Our bill aims to level the playing field for American exporters by updating the Federal rules for the global shipping industry.

It will give the Federal Maritime Commission greater authority to regulate harmful practices by these big international carriers. It directs the Federal Maritime Commission to issue a rule prohibiting international ocean carriers from unreasonably declining shipping opportunities for U.S. exports. This will make it harder for them to leave our products behind, just sitting there at a port, in favor of shipping over to China, sailing over to China, and then bringing their products back to us.

In addition to giving the FMC more authority to investigate bad practices by ocean carriers, the bill also directs the Federal Maritime Commission to set new rules for what the international carrier companies can reasonably charge and require them to certify and ultimately prove that fees that they charge are fair. As rates continue to climb, this is more urgent than ever.

And I personally believe that, even before this rule goes into effect, the fact that we passed this unanimously in the U.S. Senate sent a pretty strong shot across the bow because there is so much more we could do and we will do if this practice continues.

As I was working on this bill with Senator THUNE, I heard about exporters who wanted to speak out against these predatory practices but were scared into silence because they feared that the ocean carriers would retaliate. That is why our bill includes strong anti-retaliation protection for shippers. In short, this bipartisan legislation says to the foreign-owned shipping alliances: Charge fair prices, stop profiting off our backs, and fill your empty crates with American-made products.

Senator THUNE and I have a bipartisan group of 29 cosponsors representing a variety of regions: Senators CANTWELL; WICKER; BALDWIN; HOEVEN; STABENOW; MARSHALL; PETERS; MORAN; BLUMENTHAL; YOUNG; KELLY; CRAPO; SMITH of Minnesota; BLACKBURN; BOOKER; ERNST; CORTEZ MASTO, the Presiding Officer; BRAUN; WARNOCK; RISCH; BENNET; CRAMER; WYDEN; BLUNT; VAN HOLLEN; BOOZMAN; FISCHER; PADILLA; and HICKENLOOPER.

The legislation earned the endorsement of the American Association of Port Authorities, which represents more than 130 Port authorities across North and South America, including my own port of Duluth. This bill is also endorsed by more than 100 organizations, including the Agriculture Transportation Coalition, the National Retail Federation, the American Trucking Associations, and the Consumer Technology Association.

I also want to mention the House leaders on this bill—Representatives JOHN GARAMENDI and DUSTY JOHNSON of South Dakota—whose companion legislation has already passed the House. I see this as a truly bipartisan solution to a problem that is impacting millions of Americans and a great example of what is possible when we work together.

I want to congratulate Senator THUNE for his great leadership. He may be a bit taller than I, but we have worked together on many, many things across our borders.

The PRESIDING OFFICER. The Republican whip.

Mr. THUNE. Madam President, let me just join my friend and colleague and neighbor from across the border, Senator KLOBUCHAR, in just acknowledging the passage of something that is really important and credit to her staff, who I know worked tirelessly on this, and members of my staff—in particular Chance Costello—who worked tirelessly trying to find that common ground and thread the needle to get this done in a way that would expedite its passage here in the Senate.

As Senator KLOBUCHAR pointed out, the leadership on the Commerce Committee—Senators CANTWELL and WICKER—and their staffs also were instrumental in helping us get this across the finish line. But as Senator KLOBUCHAR pointed out, I think this is a good example of how, if you are willing to keep grinding and keep working at it, you can come up with solutions that are bipartisan and solutions that really get at problems that we are facing in this country.

I don't think anybody would argue that we have a supply chain crisis in America. It has heightened the importance of addressing some of these shipping challenges; and our legislation, although it may not be the end-all, certainly takes us a long way toward addressing what have been identified as many of the problems associated with trying to get the goods and products through our port system into the United States and, as importantly, trying to get those products, those things that we raise and grow and manufacture here in the United States, to their destinations around the world.

And there have been lots of examples which Senator KLOBUCHAR has alluded to that she and I and our staffs have, in visiting with stakeholders out there, people who were impacted by these bottlenecks that exist today—as we have listened to them, much of that input and feedback was incorporated into this legislation.

So it does take strong measures to help tackle supply chain slowdowns, and it does level the playing field for American exporters, including South Dakota ag producers. It does this in several ways. She has covered it well, but let me just briefly touch on a couple of things. It does this by giving the FMC, or the Federal Maritime Commission, new authorities to crack down on unfair ocean carrier practices, whether that is a refusal to carry certain cargoes or discrimination against certain commodities for export.

We have all heard these examples—Senator KLOBUCHAR alluded to this—of containers leaving the ports in the United States that are empty, filled with air, or the carriers making determinations based upon the value of certain products instead of—and then assessing detention and demurrage fees sometimes on shippers that are unfair and unrelated, really, to anything that they have done.

So providing the FMC with more tools to quickly resolve detention disputes, bringing greater efficiency and transparency to a process that leaves many shippers frustrated—and especially small businesses—is what this legislation is all about. These improvements, we believe, are going to bring long-term, positive changes to the maritime supply chain, which I hope will benefit not only exporters but importers and consumers alike.

The legislation not only levels the playing field for producers in South Dakota and across the Nation, but it will also benefit exporters, small businesses, and, as I said, consumers across this country.

So I hope, as she does, that our colleagues in the House will be able to take this up and pass it. There has been some good work done there already, much of it by my colleague in South Dakota, a Member of the congressional delegation from our State, DUSTY JOHNSON, who has been the leader on this legislation in the House of Representatives when it passed earlier this year. And now, we have our chance here in the U.S. Senate.

And it is a product of a tremendous amount of work. Senator KLOBUCHAR's staff and my staff spent not weeks but months negotiating—and, you know, there are always disagreements. There are always differences. Of course, when you present it to the rest of our colleagues on the Senate Commerce Committee, they have their ideas, unique ideas, about things that they want to fix and change and make better. So it went through that process.

But, ultimately, when we brought it up for consideration in front of the Senate Commerce Committee, there were some amendments that were offered and voted on. People got a chance to have their voices heard. A lot of the ideas that people had were incorporated into the base text, but, ultimately, when it was voted out, it was voted out of the Senate Commerce, Science, and Transportation Committee unanimously. It came out without a dissenting vote, and that, I think, set us up here on the floor of the U.S. Senate to process in a way that, again, included a high level of bipartisanship.

And I credit, too—as we brought it to the floor, there were a couple of issues we had to again deal with, individual Members who had concerns—some with the legislation, some with other issues. But as is always the case here in the U.S. Senate, an individual Senator can assert their rights in a way that enables them, gives them leverage on the process; but we were able to work through those things, and that product today has now passed the U.S. Senate.

Hopefully, if the House is inclined to do so, it would be great if they would pick it up, pass it, put it on the President's desk, and have him sign it into law because I think it will take us a long way down the road toward leveling that playing field and addressing many of the concerns that have been identified by our exporters.

I know that the farm organizations in my State of South Dakota have been very active in influencing this, very concerned about the bottlenecks and their ability to reach export destinations in a way that allows them to maximize their profitability and, in doing so, increase the prosperity of people all across the Midwest in States that we represent where agriculture is the No. 1 industry.

So congrats to those who worked on this, again, to the staff who have labored, and to my colleague from Minnesota. This is not the first time we have collaborated on issues. We share not only a border but, obviously, a lot of commonality in terms of the issues that impact our States; and this is one

in particular where I think the farmers, ranchers, small business people, manufacturers in Minnesota and in South Dakota will all derive a benefit once it is enacted into law.

We are going to do everything we can now to continue to press forward. We have gotten it this far. We need to now get some additional action by the House of Representatives. I am not sure exactly what that looks like, whether that is going to conference with them. Preferably, obviously, they pick up and pass this bill, put it on the President's desk and turn it into law.

I am pleased to be able to be a part of this and to get a result today.

Ms. STABENOW. Will the Senator yield?

Mr. THUNE. I would be happy to yield to our colleague and the chairman of the Senate Ag Committee, who also has big equities in this discussion.

Ms. STABENOW. Madam President, I thank Senator THUNE and Senator KLOBUCHAR. I know that the chair of the Commerce Committee is coming down to speak.

I just wanted to say congratulations. Thank you for your wonderful leadership on this. Obviously, with my hat on as chair of the Agriculture, Nutrition, and Forestry Committee, this is a big deal, as they would say. This is a very big deal to, certainly, all of our growers in Michigan but, I know, across the country.

So thank you for your great bipartisan work, and hopefully, we can get this all the way across the finish line. I know the President is anxious to sign it.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I, too, would like to come to the floor and thank my colleagues from the Upper Midwest for their great work on this legislation, the Ocean Shipping Reform Act of 2022.

Our colleagues from the Upper Midwest know how important agriculture products are, and they know how important it is for them to reach their destination. As Senator THUNE was the previous chair of the Commerce Committee, he knows all too well about how products can get boxed out because of other products on the rails.

My colleague from Minnesota knows all too importantly about exports and has been a big supporter of our export economy in general and represents a State that is very robust on the global economy. So her leadership on a very tough issue has been very, very appreciated.

I would like to thank, from the Commerce Committee staff, a variety of people, and from Senator WICKER's staff and from Senator THUNE's. A lot of people worked on this: Nicki Teutschel, Alexis Gutierrez, Dave Stewart, Grace Bloom, Charles Vickery, Eric Vryheid, Michael Davisson, Matt Filpi, and Megan Thompson. From Senator WICKER's staff: Andrew Neely, Fern Gibbons, Brendan Gavin, Paul Wasik, Kyle Fields. And from Senator KLOBUCHAR's staff: Obviously Baz Selassie—couldn't have done it without all of his hard work. He is really the guy behind this. And Senator THUNE's staff: Chance Costello. And certainly Rob Hickman from Senator SCHUMER's staff.

So, today, the passage of this bipartisan legislation couldn't come at a more important time for our growers and producers and exporters; that is, today we are saying that American farmers matter, and their survival matters more than the exorbitant profit of international shipping companies. That is what we really tried to tackle in this legislation. Our two colleagues brought forth this legislation in record time. It was passed in the House of Representatives, led by Congressmen GARAMENDI and JOHNSON. Those two passed that in December, and our colleagues got this bill here in the Senate in February, and we were able to pass it now here at the very end of March.

I thank again our two colleagues—Senator KLOBUCHAR for her leadership and Senator THUNE for getting it done so quickly. Literally, it was introduced in February and passed in March. I hope it is an example of what we can do on other legislation that is affecting our supply chain.

Our economy is built on trading goods in a timely manner with our partnerships from all over the world. Anderson Hay Grain in Washington said:

> The agriculture economy in our region does not work if we don't have competitive access to world markets.

Right now, the supply chain isn't working. Our ports have been clogged. Shipping companies have struggled to keep up with demand, and the costs for American exporters who are trying to get hay and milk and apples to the global market have gone through the roof. It is hurting our consumers here at home as they see prices increase, and it is hurting our exporters when they are looking at products that they are trying to get to market.

American exporters are being charged more and more for containers due to shipping delays that are really out of their control. They are trying not to increase these costs. But, basically, consumers are paying more, and our exporters are having a tough time getting their products to market.

According to the freight index, by September 2021, shipping a container had gone from $1,300 a container to $11,000 a container. Reports and news articles talk about how that has affected our supply chains, that there have been increases in costs in consumer electronics, like computers and other equipment, and in furniture and apparel. They are all seeing increases because of the increases in our shipping costs.

The Federal Maritime Commission found that between July and September of 2021, American businesses were charged $2.2 billion in fees in addition to freight rates. That is a 50-percent increase compared to the 3 prior months.

Getting overcharged is only part of the problem. Some of our businesses can't even get their containers on the ship. During 2021, there was a 24-percent drop in full shipping containers leaving from the Ports of Seattle and Tacoma. That drop increased to 30 percent in January and February of this year. That means 30 percent less containers are leaving for international markets that are full of American products. American exporters and their products are being left on the docks. That is why we wanted to act quickly.

The American farmer, with growing season upon us, can't afford to wait another minute for the Federal Maritime Commission to do its job and help police this market and make sure that our products and our farmers are not being overcharged or left on the dock.

The Washington State Potato Commission reported an 11-percent decrease in exports in 2020 from 2019. According to Darigold, American dairy producers lost $1.5 billion last year due to port congestion and related challenges.

All of this means that getting this legislation onto the President's desk could not be more important. That is why we acted fast in moving this legislation today to give the first reforms to the Federal Maritime Commission in two decades. Those new tools given to the Commission are to increase the rules to prevent American products from being left on the docks; increase transparency so that the fees the shippers are charged are known and they can't be overcharged; and three, prevent the shipping companies from retaliating against our local American businesses.

These three changes are significant changes to the authority, and the committee made sure in the changes to the legislation that these new rules need to be in place in the next few months. We cannot continue to wait for those rules to take place until next year. They need to be done now. That is why the Commerce Committee I am sure will work in a bipartisan fashion to see the implementation of this law and to make sure that the Commission is aggressive in going after the exorbitant fees that are being charged by these international shipping companies.

It is a huge task. The Commission is charged with regulating a $14 trillion international shipping industry. But this industry has done nothing but become more concentrated in the last several decades. As the supply chain challenges unfold, it is clear that the Commission is left trying to rein in the practices of five very large international companies. That is why we had to act fast and we had to be aggressive in making sure the Federal Maritime Commission would work to put rules in place that will help American ag exporters and help protect American consumers.

Again, I thank my colleagues for their great work on this legislation.

The State of Washington desperately needed to see the Federal Maritime Commission reform. I am proud to say that we were able to get a new Federal Maritime Commissioner, Max Vekich—who I think will officially be sworn in soon—from the State of Washington, who has been working on the docks for 40 years. He knows what it takes to move product. He also knows that we need aggressive action by the Federal Maritime Commission to protect all of us from these exorbitant shipping costs and to help us in making sure that products—good American exports, like our apples and hay and wheat—are not left on any dock but reach their destination in foreign markets.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, before I give my remarks, I want to give a shout-out again to our great leader, the chair of the Commerce Committee, Senator CANTWELL. I don't know if this is a record, but Senator CANTWELL moved this bill so fast through the committee, it is amazing. It is just building on the great work of the committee with the Innovation and Competition Act and so on.

Again, on behalf of all the farmers in Michigan and across the country, this is really important legislation.

(The remarks of Ms. STABENOW pertaining to the introduction of S. 3979 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. STABENOW I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

TRIBUTE TO LEAH SEIGLE

Mr. WHITEHOUSE. Madam President, before I get underway with the business that brings me to the floor, I would like to take a moment to say farewell and thank you to a member of my staff who is going on to other pursuits. Her name is Leah Seigle. She is right behind me, and she was my scheduler for many, many years.

As every Senator knows, there is a special relationship between a Senator and a scheduler. They have to be on duty, more or less, 24/7 when we are up and about. They have to deal with our day-to-day life and how it integrates with our offices. They very often are close to and involved with our families, because of having to deal with keeping our family time extant and busy schedules.

So I want to say a word of appreciation to Leah.

I don't know how many speeches she has scheduled me here on the floor for—all the ''Scheme'' speeches, probably all of the ''Time to Wake Up'' speeches, and this one today. This one today she actually gets to be here for and doesn't have to watch on television.

So to Leah Seigle, thank you very much, and to schedulers everywhere, you are important to us.

NOMINATION OF KETANJI BROWN JACKSON

Madam President, the reason I am here is to announce my intention to vote for Judge Ketanji Brown Jackson to be an Associate Justice of the Supreme Court and to congratulate her on the grace and dignity with which she withstood what Chairman DURBIN called her ''trial by ordeal'' in the Judiciary Committee.

Last week, Judge Jackson set the gold standard for patience and courtesy from a Supreme Court nominee. She demonstrated, hour after hour after often-agonizing hour, in plain view the qualities that Rhode Islander and Reagan First Circuit appointee Judge Bruce Selya has praised in her, an outstanding legal mind, an exemplary judiciary temperament, and a depth of experience in the courtroom that none of the sitting Justices possesses.

Judge Jackson reminded us, through her personal story of perseverance and hope, how historic and important it is to have a Black woman about to serve on the U.S. Supreme Court. That story of perseverance and hope stretches back beyond Judge Jackson's own life and work into the experience of Black women through American history, and it illuminates a brighter American future. So I will be proud to cast my vote for her confirmation.

During the Judiciary Committee hearing, there were persistent efforts to rewrite Judge Jackson's own history, to assign to her beliefs she has never espoused. She dispensed with those attempts so effectively that I won't dwell on them here. But there were other attempts in that hearing to rewrite history that I feel obliged to correct here today.

The first is the notion that a Justice must have a ''judicial philosophy.'' That is news to me. If a nominee has a judicial philosophy, it is definitely fair game. It is important to explore that, and it is particularly important to explore that because predisposition can come masked as judicial philosophy. But I don't see where a nominee has to have one, and I would actually suggest we are better off if judges don't, because judicial philosophy can so easily be code for predisposition.

Republicans persisted in that ''judicial philosophy'' quest, asking about ''judicial philosophy'' over 50 times. The favored theme appeared to be the so-called judicial philosophies of originalism and textualism, doctrines which illustrate my concern about predisposition.

The big, dark money donors who ushered the last three Justices onto the Supreme Court love the backward look of originalism. A backward look to an era when industry regulation did not exist because big industry did not exist. Moreover, Republican Justices completely ignore originalism when it suits them. As I pointed out in committee, the entire vast structure of corporate political power in America erected by Republican Justices over years is a continuing affront to originalism.

There was no corporate role in politics in the Constitution or the Philadelphia debates or the Federalist papers. Any of the customary wellsprings of originalism would say that this is a country to be run by we the people. But how happy—how happy—corporate political power makes big Republican donors. So originalism goes out the window, and corporate power gets baked into our system.

Unlike those judicial philosophies of predisposition and of convenience, Judge Jackson said her judicial philosophy is her methodology—''consistently appl[y]'' the ''same level of analytical rigor'' to a case ''no matter who or what is involved in the legal action.'' For a judge, following your oath of office, the constitutional precedents of the Court, and the text of the Constitution itself should suffice. You don't need a judicial philosophy.

So where did this Republican fascination with judicial philosophy come from? Here are talking points distributed by twinned rightwing, dark money influence groups, the so-called Independent Women's Law Center and the affiliated so-called Independent Women's Voice. These groups are tied in with Leonard Leo's massive, secretive $580 million-plus archipelago of front groups, like these, that make up the rightwing donors' Court-capture operation.

They sent these talking points to Republican Senators even before Judge Jackson was selected. These dark money groups noted that ''this nominee is likely to be a woman of color'' and urged the Republicans not argue, ''that the president's selection process led him to choose someone who may not be the best person for the job.''

They said:

> It is . . . important that you focus not on the selection process or on the nominee's paper qualifications, but rather on the need to learn more about the nominee's judicial philosophy.

The marching orders were clear, and 50 efforts at ''judicial philosophy'' discussion later, we saw these talking points play out in that hearing.

This rewrite of history, to presume that every nominee should have a judicial philosophy, just because rightwing nominees have a fake judicial philosophy of originalism that turns out to be sourced to rightwing dark money talking points, it seems to me to be an effort to erase the dangers of having a judicial philosophy, particularly a judicial philosophy that masks predisposition and is selectively applied.

Another rewrite of history came through the witness chosen to highlight Judge Jackson's amicus brief defending a 2000 Massachusetts law establishing buffer zones for protests around abortion clinics.

The witness was a sidewalk counselor, someone who encourages women not to go in and exercise their rights. She seemed like a very nice woman, and she testified that she acted with compassion and love. But history and

my experience don't align with that image of clinic protesters, as I recall personally.

Crowds outside of clinics in Rhode Island in those years leading up to the 2000 law were hostile and intimidating, screaming and accusing of murder, to the point where patients coming in required security escorts to protect them.

I remember pink sweatshirts that safety escorts wore outside Planned Parenthood so that patients could identify who was there to help them and then pass safely.

Activists went back and forth between Massachusetts and Rhode Island to protest outside of clinics.

On the morning of December 30, 1994, bad went to worse. A man walked into a pair of abortion clinics in Brookline, MA. At the first clinic, he shot and killed the receptionist with a modified semiautomatic rifle, then turned on others present—patients, their accompanying partners, staff. He left that clinic and traveled to the second clinic and there continued the slaughter. The man killed two people and wounded five others in this rampage, which shook New England to the core.

I was the U.S. attorney when word came out of these shootings at clinics just 1 hour up the road and that the shooter was still at large. I thought Rhode Island might very well be next. So I went and stood outside the Planned Parenthood clinic just off the highway with my friend and Federal law enforcement colleague U.S. Marshal Jack Leyden, and we stood there on that cold morning until a police cruiser could be posted outside.

I will just say that the environment that led to Massachusetts' buffer zone law passing in 2000 was not an atmosphere of compassion and love, and it is a disservice to the facts to try to rewrite history and pretend that it was.

Another rewrite of history that took place in this hearing was a rewrite of the Brett Kavanaugh hearings.

The Judiciary Committee had been provided evidence in those hearings that young Brett Kavanaugh was an out-of-control drinker with a bad history of behavior around women—most particularly the testimony of this woman that she had been physically assaulted as a young woman.

You would never know of her testimony from the history rewrite offered by Republicans in the recent hearings. You would never know that she came to the Judiciary Committee; that she testified under oath and intense public scrutiny; that she weathered the attentions of a professional prosecutor hired by the Republicans; that she was calm and credible.

And you would never know that the FBI tanked its supplemental background investigation into these allegations, including a tip line whose tips received zero FBI investigation. I have described it before as a tip dump, not a tip line.

The tips related to the nominee were segregated from the regular stream of tips in the FBI tip line and sent, without investigation, to the White House.

Republicans sought to erase all of that by rewriting Kavanaugh hearing history during this Supreme Court hearing. Well, she has a face and she has a name: Dr. Christine Blasey Ford.

And the big rewrite—the big rewrite is to ignore all the evidence that our Supreme Court is now a captured Court, captured in the same way that Agencies and Commissions are sometimes captured by big special interests.

There is a whole literature in administrative law, there is a whole literature in economics about Agency capture or regulatory capture.

Well, even before the Trump Presidency, big, powerful, rightwing donor interests began spending massive sums of money to install Justices on the Supreme Court whom they expected to rule reliably in their favor.

Very often, as the Presiding Officer knows, if you can pick the judges, you can pick the winner.

The 5-to-4 and now 6-to-3 Republican majority on the Court has been steadily delivering for those big donors; over 80—eight, zero—80 5-to-4 partisan wins for big corporate and partisan donor interests under Chief Justice Roberts.

In those 5-to-4 partisan decisions, by the way, where there was an identifiable Republican donor interest involved, it wasn't just the 80 decisions that stood out; it was the fact that the score was 80-to-0. Every single one went their way.

Dark money lurked behind the Federalist Society turnstile that picked the Justices. Dark money lurked behind the secretive Agency down the hall from the Federalist Society that ran the ads for them. Dark money lurks behind the flotillas of front group amici curiae that tell the Justices, in orchestrated chorus, how to rule.

You would never know any of this from our Republican friends in the committee.

But the American people have seen those decisions, and more and more they understand that the Court is rigged; that it is now the Court that dark money built.

Judge Jackson, by contrast, is a walking reminder of what the Court ought to be. She didn't pass through the dark money-funded turnstile at the Federalist Society. She arrived after a lifetime of accomplishment, against unimaginable odds, through a fair and honest selection process, through her merit and abilities.

The attacks on her in the committee were unseemly, but there is no need to dwell on that because at the end of the day, they were sound and fury, signifying nothing.

Judge Jackson will excel on the Supreme Court, and I will proudly cast my vote to put her there.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MARKEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNOCK). Without objection, it is so ordered.

IRAN

Mr. MARKEY. Mr. President, Donald Trump relit the fuse that leads to an Iranian nuclear bomb by abandoning the Iran nuclear deal. Now Republicans are urging President Joe Biden to let it go boom.

President Barack Obama crafted the Iran nuclear deal in 2015 to prevent an Iranian nuclear weapon. He had inherited two quagmires in Afghanistan and Iraq, and he was right to prioritize diplomacy to prevent us from falling into a third quagmire.

Donald Trump's unilateral exit from the Iranian deal in 2013 created a nuclear crisis where one did not exist. In the years since that withdrawal, Iran has crept closer to a bomb, restricted access to international inspectors, and set us on a potential collision course to war with Iran.

Our European allies wanted to build upon the Iran nuclear deal, but President Trump and his arms control assassin, John Bolton, used it as target practice, leaving the Biden administration and our allies to pick up the pieces.

On the Republicans' watch, Iran's breakout time, or time required to build enough nuclear material for its first nuclear bomb, went from more than 1 year down to just weeks.

There is simply no good alternative to reentering the Iran nuclear deal. Trump has already tried the alternative. It has failed miserably and made the United States more vulnerable and made the Middle East more vulnerable.

Then-Secretary of State Mike Pompeo laid out a series of demands for Iran in 2018 that read more like a fantasy novel than a foreign policy speech. And where did it get us? Absolutely nowhere, except it got Iran closer to a nuclear weapon than it has ever been before.

No, the reality is that the alternative to diplomacy, our Plan B, is likely to include more sanctions which will lead to more enrichment of uranium and the prospect of another Middle East conflagration. In short, Plan B stands for ''Plan Bad.'' That is what is being urged by the Republican Party, by the Trump supporters. ''Plan Bad'' would endorse Trump's disastrous policy of ''maximum pressure,'' one that gave us maximum enrichment of uranium and other activities prohibited under the Iran nuclear deal.

Plan B means that China's reported work to give Saudi Arabia—Iran's nemesis—the building blocks for a nuclear weapon will only accelerate, and other Gulf countries will jump into the race for a nuclear bomb as well.

Plan B means that Iran's nuclear facilities that are above ground will go underground.

Plan B means that cameras and international inspectors that keep a continuous eye on Iran's facilities will be shuttered permanently, leaving us in the dark about Iran's nuclear intentions.

Under Trump, we saw ''maximum pressure'' generate ''maximum tension'' that put us on a perilous path to war. Trump's Plan B to diplomacy was and continues to be a complete failure.

Indeed, we saw this in 2019, when tensions rose to a decades-long high with the assassinations of Qasem Soleimani, followed by Iran's retaliatory strike that injured 200 U.S. troops at an Air Force base in Iraq. Never had we been closer to a war with Iran.

If the sides currently negotiating a new Iran deal are unable to get to yes on a deal, I fear that we will see increasing calls from my Republican colleagues to take military action against Iran. That is not a good option.

My Republican colleagues need to be honest with the war-weary American people that doubling down on the failed policies of the Trump era will likely lead Iran to retaliate by lobbing greater numbers of missiles at our troops or at the region's energy infrastructure. Iran will double down on these failed policies, and that may lead to Iran creating a sea wall to stop traffic in the Strait of Hormuz, creating more of a supply chain pain. And my colleagues need to be honest that doubling down on these policies risks adding to the number of Gold Star mothers who have lost children to unnecessary wars far from home. And, perhaps, most importantly, my colleagues should be honest with the American people that these failed policies have led Iran closer to a nuclear weapon—not further away from a nuclear weapon, closer to a nuclear weapon—day by day, week by week that we have followed the Trump plan.

These are life-and-death stakes. Doubling down on the failed policies of Trump and expecting a different result in Iran is truly the definition of insanity.

The Iran nuclear deal is not a panacea nor was it ever intended to be a panacea. What it is, is a verifiable agreement that cuts off each of Iran's three pathways to a nuclear bomb.

First, Iran will, again, have to cap its enrichment level and ship out its stock of enriched uranium that would otherwise be potential feedstock for a nuclear bomb.

Second, Iran will finish the conversion of its Arak reactor, which will close off its plutonium path to a nuclear bomb.

And, third, and most importantly, inspectors from the international watchdog agency, the International Atomic Energy Agency, will once again get access to the soup to nuts of Iran's nuclear fuel cycle.

If we listen to the same voices who rejected a good deal in search of the impossible, who preached brinksmanship over diplomacy, we will find ourselves stuck, as we are today, with an Iran that could have the ultimate weapon to back its coercion—a nuclear bomb.

Fortunately, this screenplay does not have to end with American men and women marching off to another war in the Middle East, and it does not have to end with Iran entering the worst of exclusive clubs, those with nuclear weapons.

Russian President Vladimir Putin's recent nuclear saber rattling has brought home the stakes of nuclear diplomacy with Iran. A homicidal leader armed with weapons of annihilation is a threat to global peace.

When Putin ordered an increase in the alert level of Russia's nuclear forces a couple of weeks ago, he postponed U.S. intercontinental ballistic missile tests for fear that, in the fog of war, Russia could misinterpret an ICBM launch off the coast of California as a first nuclear strike against Russia. That also explains President Biden's reticence to impose a NATO-enforced no-fly zone over Ukraine.

Putin is failing. Ukraine and its people are winning, with our help. Every fabricated justification for Putin's senseless and illegal war has crumbled. But a direct U.S.-NATO military intervention would pull the world's two largest nuclear powers closer to a war. No simulation, no exercise, no war game can assure us that such a war does not metastasize to engulf all of Europe and lead to the use of nuclear weapons.

Mr. President, here is the scary reality: Vladimir Putin could kill millions upon millions of Americans right now using a fraction of his 4,500 nuclear weapons. That is the perennial threat of nuclear arms.

Conventional logic says that we are safe because a Russian nuclear strike would be both homicidal and suicidal for Putin, but we cannot bank on the fact that Putin, the pariah, has a moral basement. President George W. Bush famously said he looked into Vladimir Putin's eyes and he saw his soul. Thank goodness President Biden sees it for the dark space that it is.

As a result, Russia's war in Ukraine calls on us to challenge tired, old Cold War assumptions that basing our nuclear posture on the balance of terror and relying on the rationality of our leaders will keep the peace—no, it will not. That assumption has to be completely reanalyzed in view of what Putin is doing right now, that pursuing President Reagan's star wars fantasy to knock out nuclear-tipped missiles in space before they fall on American cities is wise; it is not. There is no guarantee that some of those nuclear weapons would not come and destroy American cities and that we should spend a quarter of a trillion dollars to replace the very same U.S. intercontinental ballistic missiles that the President won't even test during a conflict due to fears of escalation; we should not.

Unfortunately, our American democracy and Russia's autocracy do share one major thing in common: Both our systems give the United States and Russian Presidents the God-like powers known as sole authority to end life on the planet as we know it by ordering a nuclear first strike.

As President Richard Nixon grimly described these powers once:

> I can go into my office and pick up the telephone and in 25 minutes, 70 million people will be dead.

We know all too well that American Presidents are not infallible, neither is our early warning system, which is why we need an emergency break to ensure that a case of mistaken identity—a false missile launch—or a President gone wild does not trigger the unthinkable.

We cannot uninvent the atom, its military applications, and technological know-how. The nuclear Pandora's box is sadly forever opened. We must, however, do everything in our power to be able to look the next generation in the eye and say that we did everything—everything—in our power to avert the unfathomable, a nuclear war on this planet; and that includes supporting negotiations that not only end Russia's war in Ukraine, but also future negotiations to end the budding 21st century nuclear arms race which is spinning out of control.

Mr. President, I was a teenager during the Cuban Missile Crisis. Had President Kennedy listened to his generals rather than to his better angels, we might not be here today. This building might not be here. ''Bert the Turtle'' public service advertisements told us to duck and cover under our school desks. Backpack nukes designed to repel the Soviet advance on West Germany rolled off the assembly lines. U.S. and Soviet leaders were awoken in the middle of the night to false alarms of nuclear Armageddon. These events must forever belong to our past, not to our future.

A future held together by the fear of annihilation is a burden, not an inspiration. But Congress can shape a safer more inspiring future by supporting President Biden's efforts to reenter a good Iran nuclear deal, and we can and we must hold ourselves to a higher standard than Russia when it comes to resting the fate of humanity in the hands of just one human being.

This is a subject that should command the attention of every single American. We have to move further away from the threat of a nuclear catastrophe, not get closer to it; and that is why we must support a reentry into a good Iran nuclear deal. The alternative is frightening for the future, not just of the Middle East, but for our country and the entire planet.

MORNING BUSINESS

INCREASING MEMBERSHIP TO THE SENATE NATO OBSERVER GROUP

Mr. SCHUMER. Mr. President, due to the current events happening in Europe, the minority leader and I have